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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,294	07/10/2000	Peter Hauber	BLDR-01	9656

7590 08/11/2004

Louis J. Bachand  
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EXAMINER
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LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/613,294

**Applicant(s)**

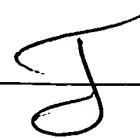
HAUBER, PETER

**Examiner**

Carlos Lugo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 5-12 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Attachments 1-3.

### DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on June 18, 2004.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 4-bar coupling, as claimed in claim 13, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

As seen in Attachment #2, the drawing only shows a 2-bar coupling, not a 4-bar coupling.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. **Claims 1-12 and 14-20 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1 Line 7 and Claim 14 Line 6, the applicant establishes that the hand-operated lever is rotatably mounted to the housing beyond the housing major portion. It is unclear what the applicant is claimed by this limitation. As seen in Figure 1, see Attachment #1, the lever 46 is at the housing major portion, not beyond the major portion. In order to continue with the examination, the limitation that the lever is rotatably mounted to the housing beyond the housing major portion will not be considered.

As to claim 13, the limitation "4-bar coupling" will be considered as a "2-bar coupling" since the drawings only illustrates two bars, not 4 (see Attachment #2).

Also, in claim 19, it is unclear what the applicant's is claiming as his invention by the limitation "said lever plate and said latch plate being coupled such that rotation of the lever plate causes a like rotation in said latch plate and said latch". In order to continue with the examination, this limitation will be considered as "said lever plate and said latch plate being coupled such that rotation of the lever plate causes rotation of said latch plate and said latch".

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-4 and 13-18 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,177,687 to Tucker.

Regarding claim 1, Tucker discloses a sliding door latch assembly. The assembly comprises a vertically extended housing (11) with a vertically extended major portion; a pull handle (12 and 18) opposite the housing major portion; and a latch (36) mounted within the housing major portion and shiftable to and from the housing for locking a sliding door to a cooperating keeper mounted in a sliding door jamb opposite the latch.

The assembly further includes a rotary actuator (22) located within the housing major portion; and a hand-operated lever (50) rotatably mounted to the housing (Figures 3 and 4).

As to the limitation that hand actuation of the lever and latch is free of interference from the pull handle is considered as a method step in an article claim. Therefore, this limitation has not been given patentable weight.

As to claims 2 and 15, Tucker discloses that the latch is a hook-shaped (36) and that the cooperating keeper comprises a slot.

As to claims 3 and 16, Tucker illustrates that the housing (11) has a rectangular cross section.

As to claim 4, Tucker discloses that the lever (50) further includes a rotatable lever plate (45), wherein the lever plate and the lever are mounted to a common pivot (Figure 4).

As to claim 13, Tucker illustrates a 2 bar coupling (30 and 32).

As to claim 14, Tucker further discloses that the assembly includes a linkage extending from the rotary actuator (22) to the lever (50).

As to claim 17, Tucker discloses that the lever further includes a rotatable lever plate (45).

As to claim 18, Tucker discloses that the rotary actuator comprises a rotatable latch plate (26).

#### ***Allowable Subject Matter***

6. **Claim 5 and 19 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. **Claims 6-12,20 and 21 would also be allowed** because the claims depend from claims 5 and 19 respectively.

#### **Reasons For Allowable Subject Matter**

7. The following is an examiner's statement of reasons for allowable subject matter:

Claims 5 and 19 present allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render

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obvious the combination set forth, including that the latch plate and the latch are mounted to a common pivot (claim 5) and that the lever plate and the latch plate are coupled such that rotation of the lever plate causes the rotation of the latch plate and the latch (claim 19 as examine, see 112 rejection above).

Regarding claim 5, Tucker fails to disclose that the latch plate and the latch are mounted to a common pivot. Tucker, as seen in Attachment #3, discloses that the latch plate (26) is rotatable with respect to a first pivot (27) and the latch (36) with respect to a second pivot (38).

As to claim 19 (as examine by the examiner), Tucker fails to disclose that rotation of the lever plate causes the rotation of the latch plate and the latch. Tucker's lever plate (45) does not cause the rotation of the latch plate (26), it cause the rotation of the latch only (Col2 Line 70 to Col. 3 Line 1).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

8. Applicant's arguments filed on June 18, 2004 have been fully considered but they are not persuasive.

Regarding applicant's argument with respect to the rejection of the claims in view of Smith (Page 7 Line13), the rejection of the claims in view of Smith as been withdrawn because Smith fails to disclose a hand-operated lever. After examine the

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invention disclosed by Smith, elements 100 and 110 are not a hand-operated lever. Element 100 is just a push button (Col 4 Line 55) and element 110 is the head portion of a locking means 108. Therefore, the rejection of the claims in view of Smith is withdrawn.

As to applicant's arguments that Tucker fails to disclose that the lever is beyond the housing major portion (Col. 8 Line 3), Tucker illustrates that the lever 50 is beyond (or exposed away from) the housing (see Attachment #3). However, since it is unclear what the applicant means by this limitation, the arguments are not valid and will not be considered (see 122 rejection above).

As to applicant's arguments that Tucker fails to disclose the limitations presented in claims 8-12 (Page 8 Line 16), although the examiner stills believe that is just a change in the size of a prior art device, the claims depends from claim 5, that was considered as presenting allowable subject matter. Therefore, because the claims depend from claim 5, the claims are allowed also.

As to applicant's arguments that Tucker, as modified by Sperry, fails to disclose the invention as claimed in claim 13 (Page 9 Line 16), the rejection is withdrawn because the examiner believe that Tucker device, alone, disclose the invention as claimed.

First, the applicant fails to show a 4-bar coupling. The applicant believes that the combination of elements 48,54,58 and 62, as seen in Attachment #2, create a 4-bar coupling. However, the applicant is wrong by asserting this.



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Elements 48 and 54 are rotatable latch plates and elements 58 and 62 are bars coupled to these plates. Therefore, it is only a 2-bar coupling, not a 4-bar coupling.

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

CL

Carlos Lugo  
AU 3677

July 27, 2004.

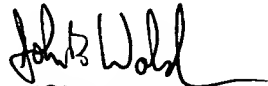
  
**JOHN WALSH**  
**PRIMARY EXAMINER**

FIG. 1

Attachment #1



Title: Sliding Door Latch Assembly  
Inventor: Peter Hauber  
Serial No.: 09/613,294  
Filing Date: July 10, 2000  
Atty. Docket No.: BLDR-01  
2/2

FIG. 2B

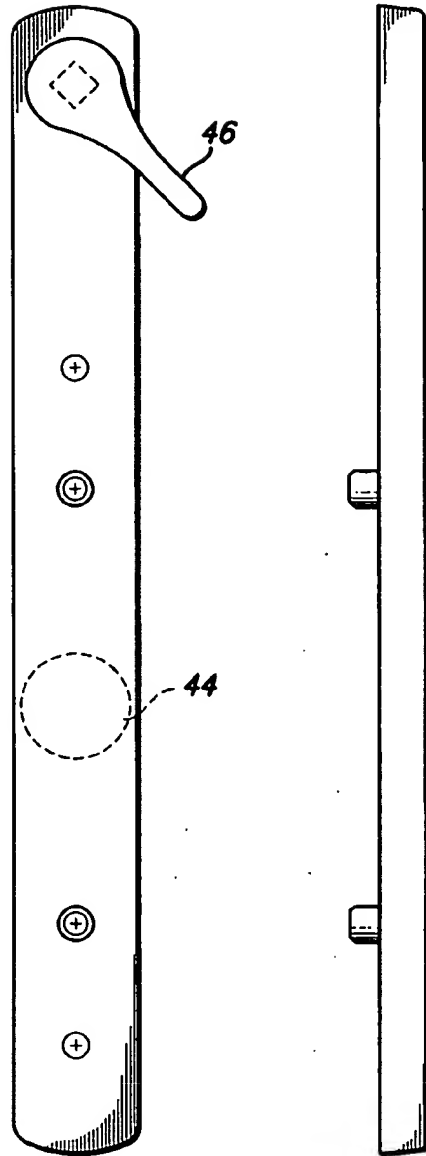


FIG. 2A

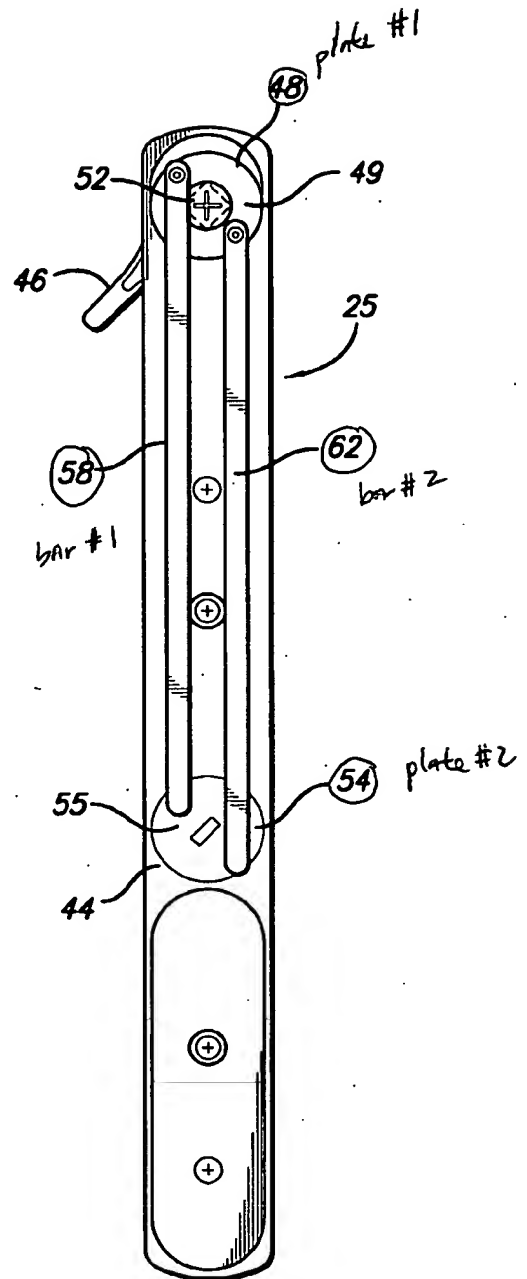


FIG. 2C

Attachment #2

